

Jury Committee
Judicial Conference of Indiana

April 16, 2004
Minutes

1. Members present. The following members of the committee were present: Shelia Carlisle, Jeffrey Heffelfinger, John Pera, Michael Peyton, Ken Scheibenberger, William Sleva, and Ernest Yelton, Chair
2. Staff present. Michelle C. Goodman and Tom Carusillo provided the committee with staff assistance.
3. Guests. The following guests were present: Kurt Snyder, JTAC; and John Keeler, Attorney, Baker & Daniels.
4. Minutes. The Committee approved the minutes from January 23, 2004.
5. Jury Orientation: Michelle reported that we are returning between \$18,000 and \$19,000 dollars in unused grant funding for the video project. Also, only about 40 judges have not requested a copy of the video and positive feedback concerning the video is still being received. Michelle has had a few inquiries from outside entities to purchase a copy of the video.
6. Jury Pool: Judge Yelton reported that the grant application for the jury pool project was approved by the Indiana Criminal Justice Institute in March for a total project cost of \$122,666.67. Kurt Snyder, JTAC, said that Judge Pera, Michelle, and some JTAC staff would be meeting with him next Wednesday at 4:00 p.m. at the Omni North to begin developing a project charter, which will outline the scope and details of the project. Kurt said he would check with other agencies to see how they clean their lists in light of the jury pool project. The goal is to complete this project by September 2004.

Judge Pera reported on his meeting with the Secretary of State's Office concerning voter registration list. He said that they were working on a project to clean their own list, which means the courts would be receiving better data from them in the future. The Committee decided that we would not work with the Secretary of State's Office on cleaning the lists unless it was advantageous to do so. Also, the Committee agreed that we should not include the federal courts in this project at this time in order to maintain focus on the needs of the state courts.
7. Rule Amendments: Judge Yelton presented proposed amendments to Rule 6 concerning exemptions to the Committee, which would increase the exemption for those who have completed a term of jury service from a year to twenty-four (24) months and to provide that no other exemptions are permitted. Judge Yelton explained that the 24-month exemption would be less burdensome on those who have completed service. Judge Yelton and John Keeler explained to the Committee the likelihood of the Legislature acting on exemptions based on the activity this past session. After discussing these proposals, the Committee unanimously approved the proposed amendments to Rule 6 and recommend it be sent to the Supreme Court.

Judge Yelton then presented a proposed amendment to Rule 7 concerning deferrals, which would make deferrals more juror friendly by deleting “undue”, “extreme”, and “public” from the second line of the rule. Judge Yelton explained the discussions that occurred during the Legislative session that judges would not be generous with deferrals. John Keeler addressed the Committee and offered a proposal of a deferral as a right for jurors based on proposed legislation from the last session. This concept was not well received by the Committee. The Committee discussed at length the proposed amendment and a motion was made to amend the proposal to leave in “extreme”, which was seconded. The Committee discussed the proposal as amended and decided unanimously to approve the Rule 7 proposal as amended and recommend it be sent to the Supreme Court.

Judge Yelton also presented proposed amendments to Rule 9 concerning term of service which would clarify that a person who reports for service but is not selected completes a term of service and that a person who is not selected may request to be added back into the jury pool. Judge Pera expressed concern regarding the first part of the proposal because his court gives jurors the option of deferral the day they appear for service. The Committee discussed this possibility and amended the proposal by adding “and not deferred” to the proposed amendment in paragraph (a) of the Rule. Judge Yelton briefly discussed the addition of paragraph (c) and Judge Pera said that Judge Matsey raised this same issue at the District Meeting. One member of the Committee asked about allowing jurors who serve during the trial to make the same request. Michelle indicated that Rule 17 states that the court shall grant a challenge for cause if a person “served as a juror in that same county within the previous three hundred sixty five (365) days in a case that resulted in a verdict”. After the Committee discussed these proposals, the Committee unanimously approved the Rule 9 proposals as amended and recommended it be sent to the Supreme Court.

Judge Yelton presented a proposed amendment to Rule 20 concerning preliminary instructions which would allow jurors to discuss the evidence prior to deliberations. Michelle explained that the first part of the proposal was the same language used in Arizona and that the second part of the proposal was the recommendation of the Judicial Administration Committee in the Juries for the 21st Century report. The Committee discussed whether it was appropriate to allow alternates to participate in this exercise if they were not able to deliberate. One committee member said that alternates are selected at random prior to the jurors deliberating. After discussion, the Committee decided that allowing alternates to participate in this exercise would not be problematic. The Committee amended the proposal to read that the “court shall admonish” rather than “should still admonish”. The Committee unanimously approved this proposal as amended and recommended it be sent to the Supreme Court.

Finally, Judge Yelton presented a proposed amendment to Rule 10 concerning Juror Safety and Privacy which would provide that personal information supporting disqualifications, exemptions, or deferrals would be public unless otherwise privileged or confidential. Judge Yelton indicated that this proposal was brought for discussion based on our discussions with Steve Key at the last meeting. Judge Yelton said that this proposal would allow the public access to the information to insure that the policies concerning deferrals, etc. were consistently followed. Judge Yelton then asked the Committee why documentation is needed if it was not for the public’s knowledge. The Committee responded that the information was for those involved in the trial to see who was not called for the case. The Committee discussed this issue at length and unanimously decided to not amend Rule 10 at this time.

8. Exit Survey: Michelle distributed a draft exit survey along with several samples from resource materials or courts for the Committee's review. Michelle explained that her draft focused on more open-ended questions and some areas that other samples did not include. Judge Yelton asked the Committee to review these materials and give feedback to Michelle prior to the next meeting.
9. Legislative Agenda: Judge Yelton recommended working with Senator Gard again next year if she decides to pursue legislation on exemptions rather than trying to work on this as a Committee. The Committee agreed this was the best approach.
10. Other Business: Judge Scheibenberger said that Allen County was considering purchasing an additional feature for their jury management system that would allow jurors to respond to the questionnaire via telephone. The juror would receive a post card giving the needed information to complete the questionnaire by telephone and requires the juror to electronically sign the questionnaire by using an identification number, which appears on the post card. After Committee discussion concerning Rule 4, Judge Yelton offered to raise this issue with the Supreme Court.

Judge Yelton asked if any member had received additional comments regarding jurors having copies of the instructions. No one had anything more to report on this issue at this time.

Judge Sleva raised the issue of employers paying jurors while they serve on jury duty. The Committee briefly discussed this and the legislative proposals on this issue from the last session.

The Committee also discussed how to follow up with those who do not report to jury service. Some members made phone calls and rescheduled those who did not show and some did nothing to follow up.

Michelle raised a question with the Committee concerning whether alternate jurors were permitted to ask questions of witnesses. The Committee said that alternate would be allowed to ask questions of witness in the same way as other jurors. The Committee asked Michelle to prepare an FAQ on this for posting on the web.

Michelle distributed relevant cases and articles concerning various jury issues. She also distributed a proposed FAQ outlining when the right to vote is restored for the purpose of serving on a jury. The Committee was asked to review this FAQ for discussion at the next meeting.
11. Next Meeting: July 23, 2004 at 10:00 a.m. at the Judicial Center.

Respectfully Submitted,

Michelle C. Goodman